

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County _____
City of TANNERSVILLE
Town _____
Village _____
Local Law No. 3 of the year 2004

A local law (Insert Title) REGULATION OF ADULT USES LAW

VILLAGE BOARD

Be it enacted by the _____ of the
(Name of Legislative Body)

County _____
City of VILLAGE OF TANNERSVILLE as follows:
Town _____
Village _____

Be it enacted by the Village Board of Trustees of the Village of Tannersville as follows:

SECTION 1. Legislative Intent.

In November 2003, the Village Board established an "Adult Use" committee and directed both the Village Attorney and the Committee to conduct a study of the potential detrimental effects to the Village if adult uses were to be established in close proximity to sensitive land uses. At the present time, there are no land uses in the Village that could be classified as "adult uses." After careful review of the study prepared by the Attorney and the Committee, the Village Board does hereby find that adult uses could result in potential adverse effects on the Village's residential areas as well as its schools, places of worship, parks and other designated open space areas, historic and scenic resources, and civic and cultural facilities.

SECTION 2. Application.

This local law shall apply to all areas of the Village of Tannersville.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 3. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect within such part or parts.

SECTION 4. Definitions.

ADULT USES – Whenever used in this local law, the words “adult use” or “adult uses” apply to the following types of establishments:

- a) Adult bookstore. An establishment which has as a substantial or significant portion of its stock in trade, books, pamphlets, magazines or other periodicals, sculptures, photographs, pictures, slides, videotapes, films, or sound recordings and which establishment excludes any minor by reason of age.
- b) Adult entertainment cabaret. A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.
- c) Adult video store. An establishment having as a substantial or significant portion of its stock in trade, videotapes or films for rent, sale or viewing on premises by use of motion picture devices, video equipment or other coin operated means, and which establishment excludes any minor by reason of age.
- d) Peep show. A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.
- e) Massage establishment. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs, which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages
- f) Adult motel. A motel which excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age.
- g) Adult theater. A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.

- h) **Body painting studio.** An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.
- i) **Adult model studio.** Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established in the New York State Education Law for the issuance of conferring of, and is in fact authorized to issue and confer a diploma.

SCHOOL – A facility, either public or private that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and/or high schools.

HOUSE OF WORSHIP – An institution that people regularly attend or reside in to participate in or hold religious services, meetings, or other activities. A house of worship includes churches, synagogues, temples, monasteries, and convents.

PARK – Any public or private land available for recreational, educational, cultural, or aesthetic use.

CIVIL FACILITY – Buildings, structures, and uses owned and operated by the Village of Tannersville and regularly used for neighborhood meetings and other forms of public assembly.

HISTORIC RESOURCE – Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

SCENIC RESOURCE – Any road, highway, lane, district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law. Any area designated a Scenic Area of Statewide Significance pursuant to New York State's Coastal Management Program (19 NYCRR 602.5).

SECTION 5. Adult Uses.

- A. Adult uses, due to their nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located, particularly when located in close proximity to residential areas and recreational commercial areas. The objectionable characteristics of these uses are further heightened by their concentration

in any one area thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be inconsistent with the village as a primarily residential and family oriented community as well as a recreational destination. Such uses can contribute to the blighting or downgrading of areas in which they are located as a result of their related potential for an increase in crime and the undermining of the economic, moral and social welfare of the community. The special regulations deemed necessary to control the undesirable secondary effects arising from adult uses are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of the residential community. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to adult uses.

- 1) No adult use shall be located within a one thousand foot radius of another adult use.
- 2) No adult use shall be located within a one thousand five hundred foot radius of any house of worship, school, day care center, park or playground, civic facility, or historic resource, except as specifically set forth hereinafter.
- 3) No more than one adult use shall be located on any lot.
- 4) No adult use shall be located in any building that is used in whole or part for residential uses.
- 5) All building openings, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.
- 6) As a condition of approval of any adult use, there shall be a restriction that there shall be no outdoor sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such sign shall be reviewed by the Village Board in conjunction with the Special Use application and shall conform to all signage requirements of said this local law.
- 7) No loudspeakers or sound equipment shall be used by adult uses that is clearly audible at the property line.
- 8) Hours of operation of any adult use establishment granted a special use permit hereunder shall be limited to from 7:00 o'clock pm to 12:00 midnight

Section 6. Designated Area Established

Notwithstanding the minimum setbacks set forth hereinabove, a designated area is hereby established wherein it shall be permissible, following the granting of a Special Use Permit by the Village Board, to operate an adult use establishment. Such area shall

encompass the land located within the parcels designated as Tax Map parcels numbers: 16520-1-11.12 and 16520-1-13 located on Main Street.

Section 7. Special Use Permits:

A. Procedures and Provision.

- 1) Applications for Special Use Permits shall be filed with the Building Inspector/Code Enforcement Officer, who shall forward the application to the Village Board for decision, no less than ten (10) days prior to the next regularly scheduled meeting.
- 2) A detailed plot plan for the development of a Special Use shall be submitted with each Special Use Permit application. The detailed plot plan shall be drawn to scale, accurately dimensioned and show the location of all buildings, parking areas, traffic access and circular drives, open spaces, landscaping, topography, special features, and any other information, including such information about neighboring properties, as may be necessary to determine and provide for the enforcement of this local law.
- 3) A non-refundable application fee of \$2,500.00 to cover the cost of processing a Special Use Permit application, shall accompany any application for a Special Use Permit.
- 4) A Special Use Permit shall be deemed to authorize only one particular Special Use, and such permit shall be considered null and void if, within one year from the date of issue all improvements required for this Special Use are not completed, or if the Special Use shall cease for more than one year for any reason, unless otherwise provided by the Village Board.
- 5) The Village Board shall attach conditions, limitations and safeguards to the Special Use Permit as are necessary to assure continual conformance to all applicable standards and requirements.
- 6) A use authorized by Special Use Permit may be revoked by the Village Board if it is found and determined that there has been a failure of compliance with any one of the terms, conditions, limitations, or requirements imposed by said permit.
- 7) The Village Board shall hold a public hearing on the Special Use within 62 days of its receipt of a complete and proper Special Use Permit application. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof. Applicants shall notify all adjacent property owners of the Special Use Permit application and of the time, date and location of the public hearing by Certified Mail at least ten (10) days before such hearing. The applicant shall submit a copy of such notice with receipts indicating mailing of the notice at least ten (10) days prior to the public hearing to the Village Board at the public hearing. Failure to do so can result in the postponement of the hearing until such requirements are met.

- 8) In addition to the public notice required in "7)" above, the applicant shall post a sign on each frontage of the subject property giving notice that an application is pending before the Planning Board and the nature of that application as well as the date, time and place at which the public hearing will take place. The signs shall be fourteen inches by twenty-two inches (14" x 22") or larger and shall be supplied to the applicant by the Planning Board. Said sign(s) shall be located at the center frontage of the property, not more than ten (10) feet back from the property line. The signs shall be attached to a post not less than two (2) feet nor more than six (6) feet above grade and must be clearly visible from the road. Such sign(s) shall be displayed for a period of not less than ten (10) days immediately preceding the public hearing and shall be removed by the applicant within three (3) days after the hearing takes place. On or before the date and time of the public hearing the applicant shall certify in writing to the Village Board, that the sign was erected as described herein. At the discretion of the Village Board, failure to erect the sign(s) or submit the written certification may mean the cancellation of the hearing.
- 9) The Village Board shall render its decision within sixty-two (62) days after the public hearing. The 62-day period may be extended for good cause or with concurrence of the applicant. Decisions of the Village Board shall be in writing and shall specify the particular conditions for such approval or the grounds for denial.
- 10) The applicant shall be required to establish an escrow account to reimburse the Village of Tannersville for the legitimate costs of review associated with the application. The funds may be utilized for the paying of professionals qualified to review the required plans, reports and other technical information submitted in support of an application. The initial amount of the establishment of the escrow account shall be determined on a case-by-case basis as 1% of the estimated overall cost of the project but in no case shall be less than \$3,000.00 (Three Thousand Dollars) or a larger amount estimated by the Village Board to be reasonable and necessary to cover the cost of the review to be incurred by the Village. All necessary reviewing professionals assisting the Village in such reviews shall provide an estimate of the approximate cost of review services. The Village shall submit an itemized bill to the applicant at least thirty days prior to any deduction of such amount billed from the escrow account. The Village Board may periodically and at its discretion require the replenishment of the escrow account established hereunder. Upon completion of the application and review process, any balance remaining in the escrow account shall be refunded to the applicant within thirty days of the submission and payment of the final bill by the Village and payment in full of all application and approval fees.

~~B. Standards for all Special Use Permits:~~

- 1) Adequate access for emergency services and fire and police protection must be provided.
- 2) The location, size and character of the Special Use must not be detrimental to the orderly development of adjacent properties.

- 3) Safe, convenient and adequate vehicular and pedestrian access to and from the Special Use through adequate, but not excessive, points of ingress and egress having sufficient width, proper grading and alignment, clear visibility and not located too near street corners or places of public assembly.
- 4) Adequate off-street parking and loading areas which are properly located on the lot so as to provide safe and convenient circulation.
- 5) Locations and heights of buildings shall be such that the Special Use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- 6) Landscaping and screening of parking, loading and service areas so that such areas are screened all seasons of the year from the view of adjacent lots and streets.

Section 8. Effective Date.

This local law shall take effect in accordance with the direction of the New York State Municipal Home Rule Law.

Section 9. Violation

A violation of this local law shall be deemed to be a misdemeanor and is an offense punishable by a fine up to \$1,000.00 or by imprisonment for up to one year or both. For purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation.

Section 10. Separate Validity

If any article, subarticle, paragraph, clause, or other provision of this local law shall be held invalid, the invalidity of such article, subarticle, paragraph, clause, or other provision shall not affect any of the other provisions of this local law.